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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/460,117 12/13/99 GARCIA

E CUC-105

LONG ALDRIDGE & NORMAN LLP
701 PENNSYLVANIA AVENUE N.W.
SUITE 600
WASHINGTON, DC 20004

PM82/0628

EXAMINER

THISSELL, J

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

06/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/460,117

Applicant(s)

GARCIA, EUGENIO CRUZ

Examiner

Jennifer I Thissell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

1. This Office Action is in response to the Request for Supplemental First Action, received April 11, 2001, so as to consider the Preliminary Amendment, filed March 30, 2001.

Specification

2. The disclosure is still objected to because of the informalities cited in the Office Action dated March 30, 2001.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, Second Paragraph

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 are still rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph, for the reasons originally stated in the Office Action mailed March 30, 2001.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-49 are rejected, as understood, under 35 U.S.C. 103(a) as being unpatentable over admissions of prior art on page 1 of the disclosure in view of

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Liardet ('790). Applicant's admission on page 1 of the disclosure states that laminated floor comprising compressed cellulose sheets impregnated with polymerisable resins are known. The admission of prior art does lack the provision of peripheral edges being of reduced thickness with respect to the remainder of the floor [panel]. Liardet teaches a decorative floor panel comprising compressed leather having peripheral edges being of reduced thickness for simulating tiles having mortar between adjacent ceramic tiles. In order to simulate mortar between adjacent ceramic tiles, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the peripheral edges of the adjacent edges of the admitted prior art with a reduced thickness as is suggested by Liardet.

Regarding claims 4-29, Liardet further discloses a top surface with a perimeter area having an edge contour and an interior region, wherein the edge contour is below the interior region.

Regarding claims 5, 34, and 46, Liardet does not specifically state that the edge contour is less than a millimeter below the interior region. However, discovering the optimum value of an engineered variable is considered routine in the art.

Regarding claims 6-8 and 21-23, applicant's admission on page 1 of the disclosure states that laminated materials comprising compressed cellulose sheets impregnated with polymerisable resins with a polygon shape (rectangular) are known, but lacks the provision of a top surface that is

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rectangular or square. However, it would have been an obvious design choice to construct the top surface in any desired shape, since the means for connecting the elements would remain the same. The shape of the top surface would be determined by the likes and dislikes of the person that the material was being installed for.

Regarding claims 9-13, 20, 24-26, 38-43, applicant's admission on page 1 of the disclosure states that laminated materials comprising compressed cellulose sheets impregnated with polymerisable resins, the finished product which is intended to imitate another product, including wooden, ceramic, and natural stone, are well known in the art. It is also known that any material inherently has a certain degree of surface texture.

Regarding claims 14-16 and 27-29, applicant's admission on page 1 of the disclosure states that laminated material comprising compressed cellulose sheets impregnated with polymerisable resins, as finished products such as boards, floor boards, and panels, are well known in the art.

Regarding claims 17, 19, 30, and 32, Liardet discloses side walls that extend down from the edge contours to a rim, and that the rim mates with another finished product.

Regarding claims 18, 31, and 44, it should be noted that the claims are considered product-by-process claims, therefore, determination of patentability is based on the product itself. See MPEP 2113. The patentability of the product does not depend on its method of production. If the product-by-

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process claim is the same as or obvious from a product of the same prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed.Cir.1985)


Regarding claims 35-37, and 47-49, the surface texture of any material contains concave or convex features, since it is inherent that any material will contain a certain degree of surface roughness and texture.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

jlt
June 20, 2001


Carl B. Friedman
Supervisory Patent Examiner
Group 3600